THE HONOURABLE SHRI JUSTICE R.SUBHASH REDDY

WRIT PETITION No. 17388 OF 1997

Dated 12th December, 2006

Between:
T.N.C. Narasimhacharyulu

…Petitioner

And

Deputy Commissioner of Endowments,
Kurnool and others.

…Respondents.

ORAL ORDER:

This writ petition is filed seeking issuance of a writ of mandamus to declare the action of the respondents in taking over the administration of the Madhava Narayanaswamy @ Srinivasa Perumal Temple and the property endowed to it, situated at Mahasamudram village of Chittoor District, as illegal, arbitrary and without jurisdiction and a consequential direction to the first respondent to enquire and decide the dispute regarding the character of the said temple under Section 87 of the Andhra Pradesh Charitable and Hindu Religious Institutions and Endowments Act, 1987.

As per the affidavit filed in support of the petition, it is the case of the petitioners that the great grand father of the first petitioner, who died during the pendency of the writ petition, constructed the Madhava Narayanaswamy @ Srinivas Perumal Temple situated in Mahasamudram village with his own funds and in his own land, and, the said temple is being managed by the members of the family without any aid from the Government or any other institution. It is further stated that the 3rd respondent visited the temple and interfered with the affairs of the temple, which necessitated filing of the writ petition.

In the counter-affidavit filed on behalf of the respondents, it is stated that the temple is situated in Survey No.165/2 of Mahasamudram village, which is notified as Gramakantam, but not in the land belonging to the petitioner, and, that the said temple is a registered temple under Section 43 and published under 6©(ii) of the A.P. Charitable and Hindu Religious Institutions & Endowments Act, 1987 vide Certificate No. 676 issued in that regard. It is further

stated that no application under Section 87 of the Act was filed before the competent authority claiming any rights over the temple.

Though the petitioners have stated that the temple was constructed by the ancestors of the petitioners in their private land, but the same is disputed in the counter affidavit, wherein, it is stated that the land on which the subject temple is constructed is notified as Gramakantam land and is situated in Survey No. 165/2 of Mahasamudram village. In any event, as the temple is stated to have been registered under Section 43 and published under Section 6©(ii) of the A.P.Charitable and Hindu Religious Institutions and Endowments Act, 1987, if the petitioners are aggrieved, they can seek appropriate relief by making an application to the competent authority under the Act. In the absence of challenge to the registration and publication, petitioners cannot seek any direction by way of mandamus not to interfere with the possession of the temple.

At the stage of admission, in the year 1997 itself this court granted interim order not to interfere with the administration of the subject temple and the same continued all along. It is stated that in view of the interim orders, petitioners are managing the temple. However, as much as no application is filed under Section 87 of the Act by the petitioner, no relief as sought for can be granted and it is open for the petitioners to make such an application under Section 87 of the Act seeking declaration as to the character of the temple.

Therefore, I dispose of the writ petition keeping it open to the petitioners to move an application before the competent authority within a period of four weeks from today and if any application is filed under Section 87 of the A.P.Charitable and Hindu Religious Institutions and Endowments Act, 1987, it is open for the competent authority to decide the same uninfluenced by any of the observations made in this order. Inasmuch as it is stated that the

petitioners' family alone is managing the affairs of the temple pursuant to the interim orders of this court, status quo obtaining as on today shall be continued for a period of six weeks from today and it is open for the petitioners to obtain appropriate interim orders from the competent authority.

The writ petition is disposed of accordingly. No order as to costs.

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12.12.2006

R.SUBHASH REDDY, J.

VR

Note:
Issue cc within three days.
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